

Shawn M. Lindsay, OSB #020695
shawn@hbclawyers.com
Harris Berne Christensen LLP
15350 SW Sequoia Parkway, Suite 250
Portland, OR 97224
Telephone: (503) 968-1475

AUSTIN KNUDSEN
Montana Attorney General
DAVID M.S. DEWHIRST
Solicitor General
CHRISTIAN B. CORRIGAN*
Assistant Solicitor General
Montana Department of Justice
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
406-444-2707
David.Dewhirst@mt.gov
Christian.Corrigan@mt.gov
**Pro hac vice application pending*

Attorneys for Amicus Curiae

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

ELIZABETH HUNTER, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF
EDUCATION, et al.,

Defendants,

WESTERN BAPTIST COLLEGE
d/b/a CORBAN UNIVERSITY, et al.,

[Proposed] Defendant-Intervenors.

Case No. 6:21-cv-00474-AA

**MOTION OF MONTANA AND
THIRTEEN OTHER STATES FOR
LEAVE TO PARTICIPATE AS
AMICUS CURIAE IN SUPPORT OF
DEFENDANTS AND PROPOSED
DEFENDANT-INTERVENORS**

Request for Oral Argument

The State of Montana, State of Alabama, State of Arizona, State of Arkansas, State of Indiana, State of Kansas, State of Kentucky, State of Louisiana, State of Mississippi, State of Nebraska, State of Oklahoma, State of South Carolina, State of Texas, and State of Utah (collectively “the States”) move for leave to file the accompanying proposed Brief of Amicus Curiae. The decision whether to grant leave to participate as amicus curiae is within the broad discretion of the district court. *See Nat’l Wildlife Fed’n v. Nat’l Marine Fisheries Serv.*, Nos. CV 01-640-RE, CV 05-23-RE, 2005 U.S. Dist. LEXIS 16657, at *14 (D. Or. Apr. 8, 2005) (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir.1982)).

The States have a substantial interest in Title IX’s religious exemption and the outcome of this case. Plaintiffs’ claims challenging Title IX’s religious exemption directly implicate bedrock First Amendment principles. The States seek to preserve religious liberty and protect the rights of conscience for their citizens and institutions of faith. Hundreds of higher education institutions across the country bear a religious imprint. These schools contribute to the vibrant civic life of the States. But to preserve their unique character and honor their religious tenets, they require exemption from Title IX. The States support a broad application of this religious exemption—it protects these unique schools from religious-based discrimination and prevents the government from interfering in religious matters of theology, membership, and conduct.

WHEREFORE, in light of the States’ significant interest in Title IX’s religious exemption, the States respectfully request this Court grant leave to file the attached

Brief of Amicus Curiae in Support of Defendants and Proposed Defendant-Intervenors.

DATED: September 21, 2020.

HARRIS BERNE CHRISTENSEN LLP

By: /s/ Shawn M. Lindsay
Shawn M. Lindsay, OSB #020695

Christian B. Corrigan, pro hac vice application
pending

AUSTIN KNUDSEN
Attorney General of Montana
DAVID M.S. DEWHIRST
Solicitor General
CHRISTIAN B. CORRIGAN
Assistant Solicitor General
Office of the Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
David.Dewhirst@mt.gov
Christian.Corrigan@mt.gov

Attorneys for Amicus Curiae

Additional Counsel for Amici Curiae:

Steve Marshall
ALABAMA ATTORNEY GENERAL

Mark Brnovich
ARIZONA ATTORNEY GENERAL

Leslie Rutte
ARKANSAS ATTORNEY GENERAL

Theodore E. Rokita
INDIANA ATTORNEY GENERAL

Derek Schmidt
KANSAS ATTORNEY GENERAL

Daniel Cameron
KENTUCKY ATTORNEY GENERAL

Jeff Landry
LOUISIANA ATTORNEY GENERAL

Lynn Fitch
MISSISSIPPI ATTORNEY GENERAL

Doug J. Peterson
NEBRASKA ATTORNEY GENERAL

John O'Connor
OKLAHOMA ATTORNEY GENERAL

Alan Wilson
SOUTH CAROLINA ATTORNEY GENERAL

Ken Paxton
TEXAS ATTORNEY GENERAL

Sean Reyes
UTAH ATTORNEY GENERAL